

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FATPIPE, INC.,)
)
Plaintiff,)
)
v.) C.A. No. 16-182 (LPS) (CJB)
)
VIPTELA, INC.,)
)
Defendant.)

JOINT MOTION TO STAY PENDING INTER PARTES REVIEW

WHEREAS, Plaintiff FatPipe, Inc. (“FatPipe”) filed this lawsuit alleging that Defendant Viptela, Inc. (“Viptela”) infringes United States Patent Nos. 6,775,235 (“the ’235 Patent”) and 7,406,048 (“the ’048 Patent”) (collectively, “patents-in-suit”);

WHEREAS, FatPipe also filed a lawsuit against Talari Networks, Inc. (“Talari”) alleging infringement of the ’235 and ’048 patents – the same patents that are at issue in this litigation. *See FatPipe v. Talari*, Case No. 5:16-CV-BO (E.D.N.C.);

WHEREAS, on April 29, 2016, Talari filed petitions seeking to institute inter partes review of the ’235 and ’048 patents. *See IPR-2016-00976* (for the ’235 patent) and IPR-2016-00977 (for the ’048 patent);

WHEREAS, on November 2, 2016, the Patent Trial and Appeal Board (“PTAB”) instituted inter partes review of the challenged claims of the ’235 and ’048 patents on all grounds raised in the petitions, and the IPRs will cover all but four of the claims of the ’235 patent and all claims of the ’048 patent that FatPipe has asserted against Viptela;

WHEREAS, even though Viptela is not a real party in interest or a privy of Talari under 35 U.S.C. § 315(e), if an IPR results in a final written decision, Viptela hereby agrees to be bound by the estoppel effect of 35 U.S.C. § 315(e) as though it were a real party in interest and

therefore will not assert in this district court action that the challenged claims are invalid on any ground that Talari raised or reasonably could have raised during the IPRs;

IT IS HEREBY STIPULATED AND AGREED by the parties, subject to the approval of the Court, that this case shall be stayed pending final resolution of the IPRs of both asserted patents, including any appeals of any final written decisions of the IPRs.

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